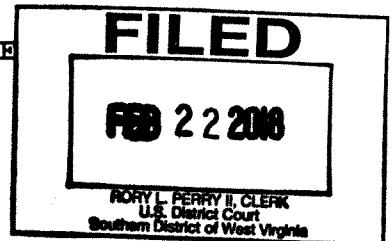


UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON GRAND JURY 2016-1
February 22, 2018 SESSION

UNITED STATES OF AMERICA



v.

CRIMINAL NO. 2:18-00034
18 U.S.C. § 1343
18 U.S.C. § 666
18 U.S.C. § 1341

PHYLLIS DOTY

I N D I C T M E N T

The Grand Jury charges:

COUNT ONE
(Wire Fraud)

The Scheme to Defraud

1. Beginning no later than September 14, 2011, and continuing through on or about February 8, 2017, defendant PHYLLIS DOTY did knowingly devise and intend to devise a scheme to defraud and to obtain money and property from her employer, the Logan County Board of Education, by means of materially false and fraudulent pretenses and representations.

2. It was a purpose and object of the scheme for DOTY to enrich herself and her family members by embezzling and misappropriating funds from the Logan County Board of Education, in that she purchased or directed the purchase of various items for personal use. The items included:

- Electronic devices, such as Apple iPods and iPads.
- Decorations, supplies, and other miscellaneous items for her son's wedding.

3. It was also a purpose and object of the scheme for DOTY to make false statements about why the items were to be purchased and, after the items had been purchased, to attempt to conceal the truth about those purchases.

Background

At times relevant to the indictment:

4. The Logan County Board of Education ("LCBOE") was a corporation and political subdivision of the state of West Virginia that supervises and controls the Logan County school district. LCBOE is located at 506 Holly Avenue, Logan, West Virginia, 25601.

5. From July 1998 until June 2013, defendant DOTY was employed as the Curriculum Director for LCBOE.

6. From June 2013 until July 2016, defendant DOTY was the Superintendent of Logan County Schools. As the Superintendent, defendant DOTY was an agent of LCBOE, in that she acted as the chief executive officer of the LCBOE. As the Superintendent, defendant DOTY had the duty of overseeing the financial affairs of Logan County Schools.

Manner and Means for Carrying Out the Scheme

The manner and means by which defendant DOTY carried out her scheme to defraud LCBOE included the following:

7. Beginning in approximately September 2011, defendant DOTY began to steal Apple devices, including iPods and iPads, that had been purchased by LCBOE.

8. Defendant DOTY, without authorization, took these devices to sell and to give to her family members.

9. Between on or about September 9, 2011, and on or about November 26, 2013, LCBOE ordered over 350 iPods and iPads from Apple. Many of these orders were placed at defendant DOTY's direction.

10. Defendant DOTY stole at least 20 of these devices and either sold them on eBay, an online auction site, or gave them to family members.

11. Defendant DOTY, through an account registered to a close family relative (account name "jack1545"), sold some of the devices on eBay. Defendant DOTY and the close family relative were paid by the purchasers of those devices through PayPal, a company that operates an online payment system.

12. For example, on or about August 31, 2011, defendant DOTY filled out an LCBOE requisition form requesting the purchase of 10 Apple iPods for \$299 each, totaling \$2,990, with the instruction on the form, "Fax to Apple." The purchasing director generated a

purchase order, which was faxed to Apple on September 9, 2011. The iPods were shipped to LCBOE at 506 Holly Avenue, Logan, West Virginia 25601.

13. On September 14, 2011, and continuing until September 24, 2011, seven of those ten iPods were listed for sale on eBay by the eBay user "jack1545." Each of these iPods was purchased by an eBay user, who submitted payment to defendant DOTY and the close family relative through PayPal.

14. On or about July 10, 2013, defendant DOTY filled out an LCBOE requisition form requesting the purchase of six Apple iPads, totaling \$3,924. On the requisition form, defendant DOTY falsely indicated that five of these iPads were for "Board Members." The purchasing director generated a purchase order, which was faxed to Apple on July 29, 2013. The iPads were shipped to LCBOE at 506 Holly Avenue, Logan, West Virginia 25601.

15. Beginning on August 7, 2013, and continuing until October 14, 2015, four of the iPads from the July 15, 2013 order were registered with Apple to members of defendant DOTY's family.

16. Also as part of the scheme, defendant DOTY used an LCBOE purchasing card to buy Apple products from Walmart to sell on eBay and give to family members.

17. On or about December 13, 2013, defendant DOTY filled out and signed a LCBOE requisition form for four Apple iPods, totaling \$1,180, to be purchased from Walmart with a LCBOE purchasing card.

She falsely indicated on the requisition form that the iPods were "for Christmas Choral Performance," and named five staff members who would be using the iPods.

18. Defendant DOTY purchased the iPods from Walmart that day with an LCBOE purchasing card. However, instead of providing them to Logan County schools staff for a legitimate purpose, she gave three of them to her family members at Christmas, and sold one on eBay.

19. In this manner, from approximately August 31, 2011, through on or about December 25, 2015, defendant DOTY defrauded LCBOE out of over \$12,000 worth of Apple products.

20. In February 2017, after defendant DOTY learned of an investigation into improper use of LCBOE funds, she attempted to conceal her fraud by giving a letter to the purchasing director asking him to "remember" that he authorized her to buy iPods from Walmart that she could keep as reimbursement for money spent on a school performance. In fact, the purchasing director did not tell defendant DOTY that she could use LCBOE funds to purchase iPods for herself as reimbursement.

21. It was further part of the scheme that defendant DOTY used LCBOE funds to purchase items to supply and decorate her son's August 8, 2015 wedding.

22. On or about February 25, 2015, DOTY filled out and signed a LCBOE requisition form for items from a company that sells

display products ("Company A") to be made on behalf of Logan County Schools, and paid for by LCBOE. The order included thirty oval bread baskets, four beverage dispensers, two scroll iron easels, and a mahogany-framed easel chalkboard. The total order was \$2069.90. Defendant DOTY falsely specified on the requisition form that the items were for "Competitions" and they were to be shipped to the Ralph Willis Vocational School in Logan, West Virginia, to the attention of two staff members at the school. However, the staff members did not request or know about the order.

23. This order was placed to Company A and shipped to the Ralph Willis Vocational School on or about February 27, 2015. On March 27, 2015, LCBOE issued a check to Company A for \$2,069.90. Many of the items from Company A remained in boxes at the school until defendant DOTY retrieved them for use in her son's wedding.

24. On or about March 12, 2015, defendant DOTY caused an order to be placed online with a wedding and party supply company ("Company B"). The LCBOE purchasing director received an email from Company B confirming that an order had been placed, to be billed to the purchasing director at LCBOE. The email indicated that the order was made from a Company B account associated with the purchasing director's email. The purchasing director, however, did not place the order and did not have an account with Company B. The order was for decorative urns, columns, and pedestals, totaling \$4,833.20.

25. The Company B order stated that the items were to be shipped to the music department of Chapmanville Middle School in Logan, West Virginia. Defendant DOTY informed the purchasing director that the band director requested these items, but the band director neither requested nor wanted these items.

26. The Company B order was shipped to Chapmanville Middle School on March 31, 2015. The boxes remained stored at the school until defendant DOTY picked them up for use in her son's wedding sometime after July 1, 2015.

27. Following her son's wedding, Defendant DOTY offered to let D.C., the wedding planner, keep some of the items from the Company B order. D.C. kept six urns from that order until in or about August 2016.

28. In or about August 2016, defendant DOTY became aware of an investigation into Logan County schools funds being spent on wedding decorations. At that time, to conceal the fact that defendant DOTY fraudulently purchased the urns using LCBOE funds, defendant DOTY contacted D.C. and asked D.C. to return the urns to Chapmanville Middle School.

29. All of the items from the Company B order, and various items from the Company A order, were used by defendant DOTY to decorate and supply her son's wedding in August 2015. Defendant DOTY purchased these items under the false pretenses that Logan County schools needed the items and certain Logan County schools

staff members had requested the items. In fact, the items ordered from Company A and Company B were never needed nor requested by any Logan County schools employee, and instead they were purchased by defendant DOTY for use in her son's wedding.

Use of Wire in Furtherance of the Scheme

30. On or about July 29, 2013, at or near Logan, Logan County, West Virginia, and within the Southern District of West Virginia, and elsewhere, defendant DOTY knowingly transmitted and caused to be transmitted certain writings, signs, and signals, that is, defendant DOTY caused to be transmitted by fax a purchase order for six iPads from LCBOE to Apple, Inc., in Austin, Texas, by means of wire communication in interstate commerce, for the purpose of executing the above-described scheme to defraud and to obtain money and property. Defendant DOTY knew that the purchase order falsely and fraudulently represented that the iPads would be for the benefit and use of LCBOE employees.

In violation of Title 18, United States Code, Section 1343.

COUNT TWO
(Wire Fraud)

1. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 29 of Count One of this Indictment.

2. On or about November 26, 2013, at or near Logan, Logan County, West Virginia, and within the Southern District of West Virginia, and elsewhere, defendant DOTY knowingly transmitted and caused to be transmitted certain writings, signs, and signals, that is, defendant DOTY caused to be transmitted by fax a purchase order for five iPads from LCBOE to Apple, Inc. in Austin, Texas, by means of wire communication in interstate commerce, for the purpose of executing the above-described scheme to defraud and to obtain money and property. Defendant DOTY knew that the purchase order falsely and fraudulently represented that the iPads would be for the benefit and use of LCBOE employees.

In violation of Title 18, United States Code, Section 1343.

COUNT THREE
(Theft Concerning Programs Receiving Federal Funds)

1. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 29 of Count One of this Indictment.

2. LCBOE receives federal funds annually, and received in excess of \$10,000 in federal funds during the one-year period beginning July 1, 2013.

3. From on or about July 15, 2013, to on or about October 14, 2015, in the Southern District of West Virginia, defendant DOTY, being the elected superintendent of Logan County Schools, an agent of the Logan County Board of Education in Logan County, West Virginia, and thus being an agent of a local government or agency thereof receiving in the one year period beginning July 1, 2013, benefits in excess of \$10,000 under Title I grants, did embezzle, steal, obtain by fraud, and intentionally misapply property worth at least \$5,000 and owned by, and under the control of such government agency, that is, more than \$5,000 in purchases from Apple, Inc.

In violation of Title 18, United States Code, Section 666(a)(1)(A).

COUNT FOUR
(Theft Concerning Programs Receiving Federal Funds)

1. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 29 of Count One of this Indictment.

2. LCBOE receives federal funds annually, and received in excess of \$10,000 in federal funds during the one-year period beginning July 1, 2014.

3. From on or about February 27, 2015, to on or about August 2015 at the latest, in the Southern District of West Virginia, defendant DOTY, being the elected superintendent of Logan County Schools, an agent of the Logan County Board of Education in Logan County, West Virginia, and thus being an agent of a local government or agency thereof receiving in the one year period beginning July 1, 2014, benefits in excess of \$10,000 under Title I grants, did embezzle, steal, obtain by fraud, and intentionally misapply property worth at least \$5,000 and owned by, and under the control of such government agency, that is, more than \$5,000 in purchases from Company A and Company B.

In violation of Title 18, United States Code, Section 666(a)(1)(A).

COUNT FIVE
(Mail Fraud)

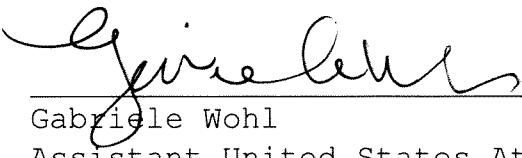
1. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 29 of Count One of this Indictment.

2. On or about March 31, 2015, at or near Logan, Logan County, West Virginia, and within the Southern District of West Virginia, and elsewhere, for the purpose of executing or attempting to execute the above-described scheme to defraud and to obtain money and property, defendant DOTY knowingly caused to be delivered by a private and commercial interstate carrier according to the direction thereon the following matters: decorative urns, columns, and pedestals, totaling \$4,833.20, from Company B. Defendant DOTY knew that in causing the Company B order to be delivered, she was falsely and fraudulently representing that the items ordered were for a legitimate use of Logan County Schools.

In violation of Title 18, United States Code, Section 1341.

MICHAEL B. STUART
United States Attorney

By:


Gabrielle Wohl
Assistant United States Attorney